IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 19956-CAT of 2006

Date of Decision : 22.12.2006

Union of India and another

... Petitioners

Versus

Dr. S.C. Kaushal and others.

.. Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR,
HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. Kamal Sehgal, Advocate,
for the petitioners.

Mr. Ajay Tewari, Advocate,
for the respondents.

J.S. Khehar, J. (Oral)

The primary challenge at the hands of the petitioners on the first date of hearing was limited to the finding recording by the Administrative Tribunal in paragraph No. 21 of its order dated 25.08.2006.

It seems that the aforesaid aspect has undergone challenge during the pendency of the instant writ petition primarily on the basis of the order dated 19.12.2006, received by the learned counsel for the petitioners by way of a fax message, from the Deputy Director General, Defence Estates. The substance of the aforesaid order is being extracted hereunder:-

"Reference this Dte General letter of even number dated 01st December 2006 and discussion with the DEO CHG and Sr.

Panel Counsel. We have also received the opinion dated 18.12.06, addressed by Sr. panel Counsel to DEO CHG by fax.

2. In view of the opinion given by the Sr. Panel Counsel that by making the statement in the High Court, the Govt. will avoid reverting the already promoted persons from ADEOs, it has been decided, in consultation with the LA (Defence), that the Sr. Panel Counsel may make a statement before the High Court Bench that the Department undertakes to grant all benefits including promotion (subject to selection in a Review DPC) from retrospective effect in case the respondent No.1 is found to be senior vis-a-vis other CEO Gp B officers in the WP in the final seniority list prepared by the Department."

In view of the instructions received by the learned counsel for the petitioners extracted herein above, learned counsel for the petitioners states, that the petitioners are now not challenging the conclusion drawn by the Administrative Tribunal at paragraph No.21 of the impugned order dated 25.8.2006.

The only issue that has been agitated before us, now, is the conclusion drawn by the Administrative Tribunal in paragraph no. 20 of the aforesaid order dated 25.8.2006. Paragraph No.20 of the aforesaid order is also being extracted hereunder:-

"20. Regarding promotion to Group A posts, we find that if Shri A.R. Qurershi whose case was kept in sealed cover by the DPC of 2003 and had been promoted in October, 2003 on exoneration, then the number of vacancies available for DPC held in 2004 should have been reduced by one and the selection

> by DPC of 2004 should have been for seven vacancies and rota re-determined on account of promotion of Shri A.R. Qureshi. Name of one more person from ADEO stream could not have been included in the panel first by increasing the number of available vacancies and then by adjusting the additional name so included in the panel likely to arise during the pendency of the panel."

Having perused the same, we are satisfied that there is no infirmity in the conclusion drawn therein on account of the fact that at the time of promotion of Sh. A.R. Qureshi, admittedly one feeder cadre post falling to the ADEO source / stream came to be filled up by way of promotion to Group A posts, which ought to have been accounted for, while applying the built in rota and quota stipulated under the rules. We, therefore, hereby affirm the finding recorded by the Administrative Tribunal in paragraph No.20 of the impugned order (extracted herein above).

Learned counsel for the respondents insists, that we need to delve further, into the consequential effects of the order passed by the Administrative Tribunal dated 25.8.2006. It is the vehement contention of the learned counsel for the petitioner, that the findings recorded in paragraph no.20 of the impugned order (extracted herein above) can effect only one person when the promotion of Shri A.R. Qureshi from the ADEO source is taken into consideration. We are of the view that the instant contention of the learned counsel for the petitioner merits acceptance. In this behalf, learned counsel for respondent No.1 acknowledges, that the promotion order of respondent No.4, at best, will have to be reconsidered, in view of the conclusion drawn by the Administrative Tribunal in paragraph No.20 of its

order. We, accordingly, clarify that the determination of the Administrative Tribunal in quashing Annexure A-3 would be relatable only to respondent No.4.

Disposed of in the abovesaid terms.

(J.S. Khehar)
Judge

December 22, 2006
vkd

(S.D. Anand)
Judge